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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/970,611 | 10/03/2001 | Dwight Poplin | 10004192-1 | 2702 |

57299 7590 05/05/2006
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EXAMINER

JERABEK, KELLY L

ART UNIT PAPER NUMBER

2622

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/970,611

Applicant(s)

POPLIN, DWIGHT

Examiner

Kelly L. Jerabek

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-8,10,12-16 and 18-23.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


DAVID OMETZ

SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: 1) Applicant's arguments (After Final Amendment page 3) state that the process for capturing image signals using different exposure times for a substantially same scene as disclosed by Norita does not make sense for a video camera, such as the video camera of Shinsky. Thus, displaying captured images corresponding to a plurality of predetermined exposure times by a predetermined time interval with a lapse of time for user selection as described by Norita is not practical using the video camera disclosed by Shinsky. The Examiner respectfully disagrees. Shinsky states that a user of the video camera may also select a high resolution still picture mode rather than the streaming video mode. When the high resolution still picture mode is selected, the CCD is scanned a single line at a time and the image data is transmitted to the host computer in order to provide a higher resolution image. Also, the digital signal processing for the image is performed as described for video images (col. 10, lines 59-65). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of adjusting the current settings of image capturing parameters according to a displayed image that is selected by a user as disclosed by Norita in the method of processing raw image data (high resolution still images) by setting image capturing parameters using a graphical user interface as disclosed by Shinsky. Doing so would provide a means for specifying an image having proper image capturing parameters while viewing a serially updated image in order to set the image capturing parameters (Norita: page 7, paragraph 135).

2) Applicant's arguments (After Final Amendment pages 3-4) state that the Norita reference involves displaying the same image with different exposure times, not displaying different images as disclosed in the Shinsky reference. The Examiner respectfully disagrees. The camera in the Norita reference includes an image sensor (9) that captures a plurality of images at different exposure times by activating after a lapse of time (T_i) and replacing the previous image signal in a buffer memory (82) with the current image signal (page 6, paragraphs 115-118). Each image signal corresponding to the different exposure times contains different signal values/characteristics therefore the Examiner is reading each image signal as a different image .